

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ATLAS MODEL RAILROAD CO., INC.

Plaintiff,

v.

THE CONTINENTAL INSURANCE
COMPANY,

Defendant.

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Civil Action No. 17-cv-11984

NOTICE OF REMOVAL

Defendant, The Continental Insurance Company, (“Continental”) by and through its undersigned counsel, files this Notice of Removal to remove the above-captioned action, currently pending in the Superior Court of New Jersey, Law Division, Union County, and in support thereof avers as follows:

1. On or about October 16, 2017, Plaintiff, Atlas Model Railroad Co., Inc., commenced this action by filing a Complaint in the Superior Court of New Jersey, Law Division, Union County, Docket No. UNN-L-3675-17, a copy of which is attached as Exhibit A.

2. On October 25, 2017, Continental received notice of the Complaint through the State of New Jersey Department of Banking and Insurance. *See* Exhibit B, October 25, 2017 Letter from Department of Banking and Insurance.

3. Upon information and belief, Plaintiff is a citizen of the State of New Jersey. Exhibit A, ¶1.

4. Continental is a corporation organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Illinois.

5. This is an insurance coverage action that Plaintiff brought against Continental to determine the rights and obligations of the parties under Continental Policy No. OC244732, in connection with Plaintiff's demand for coverage for losses allegedly sustained as a result of "sabotage and malicious acts." *Id.* at ¶¶8-16.

6. Plaintiff's Complaint alleges breach of contract. *Id.* at ¶22. Plaintiff seeks unspecified compensatory damages, consequential damages and costs of suit.

7. Plaintiff's Complaint alleges that Plaintiff's insurance claim number is M1A01822. *Id.* at ¶19.

8. Plaintiff executed a document in connection with Claim No. M1A01822 entitled "Partial Sworn Statement in Proof of Loss" alleging that the actual cash value of the "partial loss and damage" was \$2,812,600.00. *See* Exhibit C, Document Dated February 6, 2015 and identified as a "Partial Sworn Statement in Proof of Loss." Therefore, the amount in controversy between the parties exceeds the \$75,000.00 jurisdictional limit.

9. This Notice of Removal is being filed pursuant to 28 U.S.C. § 1441(a), which provides for removal of "any civil action brought in a state court of which the district courts of the United States have original jurisdiction." 28 U.S.C. § 1441(a).

10. Pursuant to 28 U.S.C. § 1332(a)(1), the district courts have original jurisdiction over this civil action because the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

11. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b), within thirty (30) days of receipt of the Complaint in the State Action. The Complaint was filed on October 16, 2017, but Continental did not receive notice of the Complaint until October 25, 2017.

12. A copy of this Notice of Removal is being filed with the Clerk of Courts, Union County, and is being served upon Plaintiff pursuant to 28 U.S.C. § 1446(d). A copy of the Notice to the Clerk of Courts is attached hereto as Exhibit D.

13. This is the proper district for removal pursuant to 28 U.S.C. §§ 110 and 1441(a) and (e)(1), in that the District of New Jersey encompasses Union County and is “the district and division embracing the place where such action is pending.”

14. Upon information and belief, other than the Complaint, there are no other pleadings, orders or other filings in the State Action. *See* Exhibit E, Online Docket Entries for Docket No. UNN-L-3675-17.

15. For the reasons set forth above, the Court has original jurisdiction over this action under 28 U.S.C. §1332, and removal is appropriate under 28 U.S.C. §1441(a)(1).

Respectfully submitted,

CNA COVERAGE LITIGATION GROUP

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Dated: November 22, 2017

Pursuant to Local Rule 11.2, the undersigned hereby certifies that the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding other than the pending state action that is the subject of this removal.

s/ Melissa A. Cornibe

Melissa A. Cornibe